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| Joe McKinney Muncy PO Box 1364 Fairfax, VA 22038-1364 | | | | |
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| MEJIA, ANTHONY | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/645,597

Applicant(s)

KU, TSE-FEN

Examiner

ANTHONY MEJIA

Art Unit

2451

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06/29/2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Acknowledgement is made that Claim 1 has been cancelled, Claims 2-4 have been amended, and Claims 5-7 have been added in the instant application.
2. Amendment to Claim 1 in response to examiner's 35 U.S.C. 112 2nd has been considered. The amendment obviates previously raised rejection, as such objection is hereby withdrawn.

Response to Arguments

3. Applicant's arguments, Remarks pages 4-6, filed **29 June 2009** with respect to the rejections of Claims 2-4 under 103(a) have been fully considered but they are not persuasive.

A) As per Claims 2-3, Applicant argues on pages 4-5 of Remarks, that Watterson et al. (US 2002/0022551) shows a data transmission system for linking multiple exercise facilities, but **does not show the steps of: transmitting the data through the Internet or a disk**. The applicant further states, that the Examiner relies on Brown et al. (US 6,702,719) (referred herein after as Brown) **to show these features**. However, the applicant specifically argues that **the monitor** in Brown **is not a processor**, but merely **a monitor**. In further, that the monitor of the exercise device cited in Brown is connected through the Internet to a microprocessor, but **does not show a microprocessor connected through the Internet to another microprocessor**.

As to argument A above, Examiner respectfully disagrees that Brown does not show the steps of: transmitting the data through the Internet or a disk. Brown clearly teaches a microprocessor (monitor 40) transmitting the data through the Internet (network 47) or a disk (personal storage device 46) (col. 7, lines 26-30 and col.8, lines 56-65, and see fig. 3). In further, examiner respectfully disagrees in that monitor 40 is not a microprocessor but merely a monitor. Brown discloses that computer system 10 is advantageously utilized as a personal exercise monitor for monitoring exercise monitor for monitoring exercise across multiple diverse exercise machine platforms. Thus, the computer system 10 depicted and described in col.4, lines 16-67, col.5, lines 1-19, and fig.1, which comprises of a microprocessor (processor 12) is synonymous to monitor 40. Further evidence of this is the identical communication between the exercise machine 38 with computer system 10 of fig.2 and with at-machine exercise monitor 40 of fig.3.

B) Also, as per Claims 2-3, Applicant alleges on page 5 of Remarks, that Claims 2-3 as amended, Brown does not explicitly teach the limitation: "...for processing data and output references values of users...".

As to argument B above, Examiner respectfully disagrees that Brown does not explicitly teach the limitation: "...for processing data and output references values of users...". Brown clearly teaches computer system 10, which is synonymous to monitor 40 processing data and output references values of users (col.7, lines 64-67, and col.8, lines 1-25).

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C) As per Claim 4, Applicant alleges on page 5 of Remarks that Examiner **fails to show the formation of storage segments according to properties of different exercise facilities** as is now claimed.

As to argument C above, applicant's alleged argument has been fully considered but is deemed moot in view of the following new grounds of rejection as necessitated by Applicant's amendment to the originally submitted claim which significantly affected the scope thereof.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watterson et al. (US 2002/0045519) (referred herein after as Watterson 1) and in further view of Brown et al. (US 6,702,719) (referred herein after as Brown).

Regarding Claim 2, Watterson teaches a data transmission system for linking multiple exercise facilities at a first location, comprising:

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at least one exercise facility (treadmill) which has a measurement device mounted thereon for capturing data (pars [0079-0080]); and

a transmission circuit (transmission medium) having one end connecting to the exercise facility and other end connecting to a microprocessor (computer device 14) (pars [0082-0083]);

wherein the transmission circuit (transmission medium) connects the exercise facility and the microprocessor to transmit exercise data in a two-way manner to record and track detailed data results of every exercise performed by users during a time period (pars [0044], and [0097-0106]).

Watterson does not explicitly teach the step of:

wherein the microprocessor is for processing data and output reference values of users; nor

wherein the microprocessor transmits the exercise data through Interact to another microprocessor at another location.

However, Brown in a similar field of endeavor discloses an exercise machine system including the step:

wherein the microprocessor is for processing data and output reference values of users (col.7, lines 64-67, and col.8, lines 1-25);

wherein a microprocessor (monitor 40) transmits the exercise data through Interact to another microprocessor at another location (e.g., remote server system 48) (col.7, lines 26-30, col.8, lines 56-65, and see fig.3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Brown in the teachings of

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Watterson in order to transmit exercise data to a remote location. One of ordinary skill in the art at the time the invention was made would have been motivated to combine all of the teachings of Watterson and Brown to help users to achieve greater their goals in exercising and health by submitting their exercise data to a remote microprocessor for more advanced analysis.

Regarding Claim 3, Watterson teaches a data transmission system for linking multiple exercise facilities at a first location, comprising:

at least one exercise facility (treadmill) which has a measurement device mounted thereon for capturing data (pars [0079-0080]); and

a transmission circuit (transmission medium) having one end connecting to the exercise facility and other end connecting to a microprocessor (computer device 14) (pars [0082-0083]);

wherein the transmission circuit (transmission medium) connects the exercise facility and the microprocessor to transmit exercise data in a two-way manner to record and track detailed data results of every exercise performed by users during a time period (pars [0044], and [0097-0106]).

Watterson does not explicitly teach the step of:

wherein the microprocessor is for processing data and output reference values of users; nor

wherein the microprocessor transmits the exercise data through a disk to another microprocessor at another location.

However, Brown in a similar field of endeavor discloses an exercise machine system including the step:

wherein the microprocessor is for processing data and output reference values of users;

wherein a microprocessor (monitor 40) transmits the exercise data through a disk (personal storage device 46) to another microprocessor at another location (col.7, lines 26-30, col.8, lines 56-65, and see fig.3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Brown in the teachings of Watterson in order to transmit exercise data to a different location. One of ordinary skill in the art at the time the invention was made would have been motivated to combine all of the teachings of Watterson and Brown to help users to achieve greater their goals in exercising and health by submitting their exercise data to another microprocessor for more advanced analysis.

6. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in further view of Watterson et al. (US 2002/0075214) (referred herein after as Watterson 2) and in further view of Anderson et al. (US 2004/0198555) (referred herein after as Anderson).

Regarding Claim 4, Brown teaches a data transmission system for linking multiple exercise facilities, comprising:

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at least one exercise facility (exercise machine 38) which has a data reader for reading user data after an exercise is finished including a slot (connector) (col.9, lines 18-40, col.10, lines 29-35); and

Brown does not explicitly teach the step wherein:

a storage device housed in the slot of the data reader for reading data stored in the data reader,

However, Watterson 2 in a similar field of endeavor discloses methods and systems for controlling an exercise apparatus using a portable device the step of:

a storage device housed in the slot of the data reader for reading data stored in the data reader (pars [0271], [0287]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Watterson 2 in the teachings of Brown to allow the user to have a transportable storage device for reading the data stored on a monitoring device of the exercise machine they are using. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Brown and Watterson 2 to enable the users of the system to be able to provide the data that was recorded from the exercise machine to a variety of different health advisers.

In further, the combined teachings of Brown and Watterson further teach the step:

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a microprocessor connected to said storage device for processing data and outputting reference values of users (Brown: col.7, lines 64-67, and col.8, lines 1-25).

The combined teachings of Brown and Watterson 2 do not explicitly teach the step of:

wherein the storage device has at least one preset memory buffer (wherein "buffer" is being interpreted as a special area in memory to hold data temporarily for processing until a program is ready to deal with it, see Microsoft® Dictionary, 5th edition) which forms storage segments according to properties of different exercise facilities.

However, Anderson in a similar field of endeavor discloses a health club exercise records system including the step wherein:

wherein a storage device (handheld device 15) has at least one preset memory buffer (temporary member data file) which forms storage segments according to properties of different exercise facilities (a unique identifying "exercise identification module" identifies each time a member moves to a new exercise to quickly identify the data source which may include a treadmill, stair machine, an elliptical machine, free weights machine with a single or a plurality of weight stations and requests specific information from the user regarding the activity performed on that data source (pars [0027-0029], [0046], and see fig.7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Anderson in the combined teachings of Brown and Watterson 2 in order to accept any fitness data source

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including activity-based workouts, and all forms of resistance training (e.g., weight lifting) and biometric monitoring devices. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Brown/Watterson 2/Anderson to help health club members to easily record different exercise activities performed in health clubs and other sports and fitness facilities.

Regarding Claim 5, Anderson further teaches the step wherein the properties of different exercise facilities include at least one of speed buffer, distance buffer, time buffer, lifting time buffer and pound buffer (pars [0027-0029], [0046], and see fig.7).

Regarding Claim 6, Watterson 2 further teaches wherein the data reader is a display instrument mounted on a handle of the exercise facility (see fig.1-2 and 6).

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in further view of Watterson 2 in further view of Anderson and yet in further view of Doolittle (US 6,224,519).

Regarding Claim 7, the combined teachings of Brown/Watterson 2/Anderson teach the data transmission system of claim 4 as discussed above. Although the combined teachings of Brown/Watterson 2/Anderson teach the step

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of collecting data from a weight lifting machine/station (par [0046]). The combined teachings of Brown/Watterson 2/Anderson do not explicitly teach the step wherein the data reader is a detection element on a weight of the exercise facility.

However, Doolittle in a similar field of endeavor discloses a weight lifting machine with electromagnetic couplers including the step wherein a data reader (Proximity sensor 82) is a detection element on a weight of the exercise facility (col.6, lines 3-11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Doolittle in the combined teachings of Brown/Watterson 2/Anderson to record direct data from the weight lifting machine/station. One of ordinary skill in the art at the time the invention was made would have been motivated to combine all of the teachings of Brown/Watterson 2/Anderson/Doolittle to maximize the capability of the users lifting on a weight lifting machine.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory

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period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Examiner has cited particular paragraphs, columns, and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY MEJIA whose telephone number is (571)270-3630. The examiner can normally be reached on Mon-Thur 9:30AM-8:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information

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for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A.M./
Patent Examiner, Art Unit 2451

/Salad Abdullahi/
Primary Examiner, Art Unit 2457